IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 19856 OF 2006

DATED: 25.09.2006

Between:

The Depot Manager,
APSRTC, Bodhan Depot petitioner

And

L.Gangadhar S/o.Rama
C/o P.Praveen
H No. 5-9-876/18, RTC Colony,
Yellammagutta, Nizamabad and another Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

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ORAL ORDER:

The present writ petition is filed by the Depot Manager, APSRTC, questioning the award of the labour Court in I.D. No. 60 of 2003 dated 16.9.2004 insofar as reinstating the workman-first respondent herein into service with continuity of service and without backwages.

The first respondent herein was employed in the respondent corporation as conductor. He was issued with a charge sheet 20.3.1998 alleging certain cash and ticket irregularities. Having not satisfied with the explanation submitted by the first respondent, departmental proceedings were initiated, which resulted in removal of the first respondent by order dated 4.8.1988. After exhausting the appeal and review remedies, the first respondent raised an industrial dispute which was registered as I.D. No. 60 of 2003 on the file of the Labour Court-II, Hyderabad.

The Labour Court on consideration of the matter, passed an award dated 16.9.2004 ordering reinstatement of the first respondent into service without back wages, but with continuity of service including notional increments and other attendant benefits. Questioning the said award, insofar as ordering reinstatement with continuity of service the present writ petition is filed.

Learned Standing Counsel for respondent corporation mainly

contended that after conducting a fair enquiry the punishment of removal was imposed on the first respondent-workman, and the same was confirmed in the appeal and review filed by the workman and the Labour Court without considering the factual aspects has erred in passing an award reinstating the petitioner with continuity of service.

Heard the learned standing counsel for petitioner, learned Government Pleader for Labour and perused the award under challenge.

The parameters and scope of judicial review of this Court are limited to—firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

In **DIVISIONAL CONTROLLER, KSRTC (NWKRTC) Vs. A.T.MANE** [1], the Apex Court held that once a domestic tribunal based on evidence comes to a particular conclusion, normally it is not open to the appellate tribunals and Courts to substitute their subjective opinion in the place of the one arrived at by the domestic tribunal.

In the present case, before the Tribunal the petitioner-APSRTC did not file the original S.R on the ground that the original record pertaining to the case was burnt in a fire accident. The Tribunal below disbelieved the said argument and observed that the respondent-APSRTC intentionally omitted to file the original record in the case since the S.R. maintained by the petitioner (first respondent) on the

relevant date would not show any alteration. Having observed so, the Tribunal has given benefit of doubt to the petitioner (workman) and answered the first point i.e., validity of enquiry in favour of the workman. Further the Tribunal having regard to the fact that the first respondent-workman in his explanation has admitted that he has wrongly punched the tickets, thought it fit to impose the punishment of denial of backwages and accordingly passed an award ordering reinstatement into service with continuity of service but without backwages.

The tribunal in the absence of material to prove the alternations alleged to have been made by the workman-first respondent and in view of the admission of the workman-first respondent with regard to wrong punching of the tickets, has rightly passed the award ordering reinstatement with continuity of service and denying the backwages. The petitioner-APSRTC, in the present writ petition, except reiterating the points raised and answered by the Tribunal, has not made out any ground warranting interference of this Court.

For the foregoing reasons, the writ petition fails and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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N.V.RAMANA,J

Date: 25.9.2006

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[1] 2005 (3) SCC 254